



BC Farm Industry Review Board

October 20, 2023

File: 44200-35\MPL

DELIVERED BY EMAIL

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Dear Ms. Camley, Mr. Hrabinsky and Mr. Ferris:

CORRIGENDUM - MPL BRITISH COLUMBIA DISTRIBUTORS INC. (MPL BC) AGENCY DESIGNATION PRIOR APPROVAL DECISION

The British Columbia Farm Industry Review Board (BCFIRB) released its decision approving MPL BC's designation as an agency for a probationary period on October 11, 2023 (the Agency Designation Decision). Subsequently, BCFIRB has received letters from MPL BC, Windset Farms (Canada) Ltd. and Greenhouse Grown Foods Inc. (Windset/GGFI), and the British Columbia Vegetable Marketing Commission (Vegetable Commission) seeking clarification. At issue is the proper interpretation of the following three paragraphs in the Agency Designation Decision:

79. BCFIRB approves the designation of MPL BC as a designated agency as per the Natural Products Marketing (BC) Act Regulations section 8 for a probationary period, that being the 2024-2025 growing season.

83. This is in addition to, and does not supplant, the Vegetable Commission conducting a review of MPL BC's agency license in accordance with section 3 of Part XIV of the General Orders and in advance of the 2024-25 growing season.

84. A decision of the Vegetable Commission to approve MPL BC as a designated agency for the 2024-25 growing season must be approved in writing by BCFIRB

In brief, MPL BC acknowledges that BCFIRB approved MPL BC as a designated agency for “a probationary period, that being the 2024-2025 growing season” and seeks confirmation of the effective date and applicable period of its probationary agency designation.

Windset/GGFI takes the position the clarification is unnecessary, pointing to paragraph 83 of the Agency Designation Decision, and says that BCFIRB remitted the issue of MPL BC’s agency licence back to the Vegetable Commission “for review and consideration, and determination as to whether the requirements for Agency designation status are met and whether there are any additional terms and conditions required” with any such decision being subject to BCFIRB prior approval. In reply, MPL BC suggests there may be a typographical error in paragraph 79 and that BCFIRB intended to approve the designation of MPL BC as an agency “for a probationary period, that being the 2023-2025 growing season” (rather than “the 2024-2025 growing season”).

For its part, the Vegetable Commission says that BCFIRB’s approval of MPL BC as an agency for “the 2024-2025 growing season” (paragraph 79) seems to be nullified by paragraphs 83 and 84, which suggest that the Vegetable Commission must decide (again) whether MPL BC should be designated as an agency, subject to the approval of the BCFIRB. Further, the Vegetable Commission is not clear what steps would be required to perfect the Vegetable Commission’s January 12, 2022 decision and whether the intention is for a section 3 review to be completed before the end of this calendar year. It says that would be a substantial undertaking, essentially amounting to a “re-do” of the previous decision which is not feasible in such a short time frame. The Vegetable Commission asks:

1. Was the reference to “the 2024-2025 growing season” in paragraph 79 intended to be a reference to the 2023-2024 growing season?
2. Is the reference to “[a] decision of the Vegetable Commission to approve MPL BC as a designated agency for the 2024-25 growing season” in paragraph 84 intended to refer to the Commission’s usual renewal process, or alternatively, is the BCFIRB directing that the Commission essentially “re-do” the substantial work that preceded the Commission’s January 12, 2022 decision, in the context of a section 3 review, prior to the end of the calendar year?

BCFIRB acknowledges that its use of the term “the 2024-2025 growing season” in the Agency Designation Decision was imprecise, as there is a distinction between the crop year, which is a calendar year, and the term of an agency licence which runs from March to March. To clarify the original intent, BCFIRB is issuing the corrigendum attached as Appendix “A”.

The Vegetable Commission also queried whether paragraph 84 is referring to the Vegetable Commission’s usual renewal process, or a “re-do” of the Vegetable Commission’s January 12, 2022, decision. Paragraph 84 was not intended to ask the

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Commission to “redo” its decision. Rather, it is intended to require the Vegetable Commission, at some point prior to the end of the MPL BC’s probationary licence term on March 1, 2025, to exercise its authority under section 3 of Part XIV, as it determines appropriate to the circumstances, and consider whether to remove the probationary conditions and recommend approval to BCFIRB of MPL BC as a designated agency.

Implicit in this direction is that the Vegetable Commission needs to be satisfied that the concerns outlined in paragraph 75 of the Agency Designation Decision have been adequately addressed by MPL BC.

Regards,

A handwritten signature in black ink, appearing to read 'P. Joshi', with a stylized flourish at the end.

Pawan Joshi
Panel Chair

Attachment: Appendix A Corrigendum to Agency Designation Decision

cc: Derek Sturko, Chair, BC Vegetable Marketing Commission
BCFIRB web site

APPENDIX A – CORRIGENDUM TO AGENCY DESIGNATION DECISION

Decision

79. BCFIRB approves the designation of MPL BC as a designated agency as per the Natural Products Marketing (BC) Act Regulations section 8 for a probationary period, commencing immediately and continuing through until the licensing period ending March 1, 2025.
80. As a condition of the probationary licence, MPL BC is required to appoint a senior executive as Vegetable Commission liaison within one month of the decision.
81. As a further condition of the probationary licence, MPL BC is required to report to BCFIRB with the first report due December 31, 2023, and quarterly⁹ in the 2024 Crop Year, copied to the Vegetable Commission, on the following matters:
- a. identity of all growers for whom it is marketing regulated product and report the production acreage of regulated product marketed for each grower;
 - b. Identify any production referenced above that has displaced imported production and expanded markets for BC growers;
 - c. Identify any production referenced above which has displaced production and markets for BC agencies;
 - d. confirm compliance with the Vegetable Commission's General Orders and policies relating to production allocation and pricing and identify any allegations or findings of non-compliance.
82. Failure to report to BCFIRB on the schedule set out above could result in the cancellation of MPL BC's probationary licence.
83. This is in addition to, and does not supplant, the Vegetable Commission conducting a review of MPL BC's agency designation status in accordance with section 3 of Part XIV of the General Orders and prior to issuing MPL BC a licence for the term March 2, 2025 – March 1, 2026.
84. A decision of the Vegetable Commission to approve MPL BC as a designated agency for the term March 2, 2025 – March 1, 2026, must be approved in writing by BCFIRB.

⁹ With subsequent reports due March 31, 2024, June 30, 2024, September 30, 2024, December 31, 2024.